Paper No. 23

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte JIN SOO LEE AND HYEON JUN KIM

Appeal No. 2005-0051
Application No. 09/594,808

ON BRIEF

Before KRASS, GROSS, and BARRY, *Administrative Patent Judges.*
BARRY, *Administrative Patent Judge.*

A patent examiner rejected claims 1, 2-18, 20, 23-27, and 30-33. The appellants appeal therefrom under 35 U.S.C. § 134(a).[1] We affirm.

I. BACKGROUND

The invention at issue on appeal concerns browsing a "moving picture." (Spec. at 2.) As techniques for searching moving pictures are developed, explain the appellants, "there have been active suggestions on browsing or searching contents

[1]"The Appellants [also] respectfully request the Honorable Board of Appeals and Interferences of the U.S. Patent and Trademark Office to withdraw the rejections of claims." (Appeal Br. at 7.) The Board, however, has no jurisdiction to withdraw the examiner's rejection.

based moving picture." (*Id.*) A person searching a moving picture, however, may want "supplementary information" on an actual place shown in the moving picture, i.e., the place the picture was filmed. For example, although a café visited by the heroine of a picture "is place information of the moving picture contents, the watcher may want supplementary information, such as the place the café actually is, or an introduction on an address or place (or a sketch map)." (*Id.* at 3.)

Accordingly, the appellants' invention enables a user to browse or search for supplementary information on a particular object included in a moving picture. (*Id.*) The supplementary information includes "content information on a particular program in the multimedia information, and multiple supplementary information including real information." (*Id.* at 4.) The content information "is information on a place or an object having a meaning in view of content of the moving picture, and the real information is information on a real place which is meaningful place in view of the content of the moving picture, or on actual performer cast an object in the moving picture." (*Id.* at 6.) A further understanding of the invention can be achieved by reading the following claim.

> 20. A method comprising receiving supplemental information specific to each object of a plurality of objects included in moving picture data, wherein:
>
> said each object of the plurality of objects is at least one of a person, a place, and a thing; and

the supplemental information includes real information and content information, wherein:

content information is information on a place or an object having meaning in view of content of the moving picture; and

real information is information on a real place which is a meaningful place in view of the content of the moving picture.

Claims 1, 2-18, 20, 23-27, and 30-33 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,144,375 ("Jain").

II. OPINION

"[T]o assure separate review by the Board of individual claims within each group of claims subject to a common ground of rejection, an appellant's brief to the Board must contain a clear statement for each rejection: (a) asserting that the patentability of claims within the group of claims subject to this rejection do not stand or fall together, and (b) identifying which individual claim or claims within the group are separately patentable and the reasons why the examiner's rejection should not be sustained." *In re McDaniel*, 293 F.3d 1379, 1383, 63 USPQ2d 1462, 1465 (Fed. Cir. 2002) (citing 37 C.F.R. §1.192(c)(7) (2001)). "If the brief fails to meet either requirement, the Board is free to select a single claim from each group of claims subject to a common ground of rejection as representative of all claims in that group and to decide the appeal of that rejection based solely on the selected representative claim." *Id.*, 63 USPQ2d at 1465.

Here, the appellants stipulate that "[a]ppealed claims 1, 3-18, 20, 23-27, and 30-33 form a single group and stand or fall together." (Appeal Br. at 4.) For our part, we select claim 20 from the group as representative of the claims therein. With this representation in mind, rather than reiterate the positions of the examiner or the appellants *in toto*, we focus on the point of contention therebetween.

The examiner finds, "'[m]ultiple supplementary information' corresponds to 'statistical information streams associated with the media event' or other information specific to the event (col. 16, line 41 - 45)." (Examiner's Answer at 3.) He further makes the following findings.

> [A]n American football game occurs in America, which is a real place. The event information about this place such as "name, description, history" (See Table 1, Stadium column) are "real information" and also are "information place" on a "real place" such as a football game in America or a particular stadium in America.

(Examiner's Answer at 8.) The appellants argue, "the information in Jain et al. corresponding to real information and content information of the claimed invention does not vary from one media event to another, i.e., stadium information concerning a particular stadium (e.g., the name, description, etc.) is the same in every multimedia event in which the stadium appears." (Reply Br.[2] at 6.)

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[2]Copying the Real Party in Interest, Related Appeals and Interferences, Status of Claims, Status of Amendments, Summary of the Invention, Issue, Grouping of the Claims, and the Appendix of the claims under appeal sections of the appeal brief into

In addressing the point of contention, the Board conducts a two-step analysis. First, we construe the representative claim at issue to determine its scope. Second, we determine whether the construed claim is anticipated.

1. CLAIM CONSTRUCTION

"Analysis begins with a key legal question — *what* is the invention *claimed*?" *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1567, 1 USPQ2d 1593, 1597 (Fed. Cir. 1987). In answering the question, "the Board must give claims their broadest reasonable construction. . . ." *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1668 (Fed. Cir. 2000). "Moreover, limitations are not to be read into the claims from the specification." *In re Van Geuns*, 988 F.2d 1181, 1184, 26 USPQ2d 1057, 1059 (Fed. Cir. 1993) (citing *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989)).

Here, claim 20 recites in pertinent part the following limitations: "content information is information on a place or an object having meaning in view of content of the moving picture; and real information is information on a real place which is a meaningful place in view of the content of the moving picture." Contrary to the appellants' argument, *supra*, the claim does not specify that the real information vary

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the reply brief, (Reply Br. at 2-3, 8-16), is neither required by nor helpful to the Board.

from one media event to another. Giving the representative claim its broadest, reasonable construction, the limitations require first information on an object or on a place having meaning in view of the content of a video and second information on a real place shown in the video.

2. ANTICIPATION DETERMINATION

"Having construed the claim limitations at issue, we now compare the claims to the prior art to determine if the prior art anticipates those claims." *In re Cruciferous Sprout Litig.*, 301 F.3d 1343, 1349, 64 USPQ2d 1202, 1206 (Fed. Cir. 2002). "[A]nticipation is a question of fact." *Hyatt*, 211 F.3d at 1371, 54 USPQ2d at 1667 (citing *Bischoff v. Wethered*, 76 U.S. (9 Wall.) 812, 814-15 (1869); *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997)). "A prior art reference anticipates a patent claim if the reference discloses, either expressly or inherently, all of the limitations of the claim." *EMI Group N. Am., Inc., v. Cypress Semiconductor Corp.*, 268 F.3d 1342, 1350, 60 USPQ2d 1423, 1429 (Fed. Cir. 2001) (citing *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 771, 218 USPQ 781, 789 (Fed. Cir. 1983)). Of course, "this is not an 'ipsissimis verbis' test." *In re Bond*, 910 F.2d 831, 832, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990) (citing *Akzo N.V. v. United States Int'l Trade Comm'n*, 808 F.2d 1471, 1479 & n.11, 1 USPQ2d 1241, 1245 & n.11 (Fed. Cir. 1986)).

Here, Jain discloses an "apparatus for interactively viewing multi-media events recorded and maintained by an interactive multi-media system." Col. 4, ll. 63-65. "[T]he preferred interactive multi-media system is described in the context of American football programming." Col. 15, ll. 58-60. "As shown in FIG. 4, the preferred interactive multi-media system 300 includes a Pre-game Setup process 302, a Capture and Filtering process 304, a 'Highlight Reel' Publisher process 306, and the inventive viewer process 400." Col. 16, ll. 1-4. "The setup process 302 works together with the capture and filtering process 304 to automate the creation of a 'highlight reel' for subsequent viewing by a user/viewer 308. *Id.* at ll. 7-10. "For example, the capture/filter process can accept and subsequently synchronize the following diverse input data information streams: (a) multiple 'live' video information streams from each camera positioned near the media event (e.g., a football field); (b) multiple 'live' audio information streams from each microphone positioned near the media event; (c) play-by-play audio and statistical information streams associated with the media event; (d) information specific to the media event such as player rosters, statistical data, etc.; (e) any other live inputs obtained by sensors located proximate the media event. All of these diverse data types are linked together by the capture/filter process during the creation of a multiple data type multi-media database." *Id.* at ll. 34-45.

The reference's play-by-play audio describes what is occurring in a football game at a particular moment. Changing from one play to the next, it has meaning in view of the content of a video of the game. Therefore, we find that the play-by-play audio comprises the claimed first information on an object (i.e., the game) having meaning in view of the content of a video. Similarly, Jain's statistical information describes what has occurred up to a particular moment in the game. Changing from one play to the next, it also has meaning in view of the content of a video of the game. Therefore, we find that the statistical information also comprises the claimed first information on an object (i.e., the subject of the statistic) having meaning in view of the content of a video.

"As [also] shown in FIG. 4, the capture/filter process 304 accepts inputs from the pre-game setup process 302." *Id.* at ll. 61-62. "[T]o automate the creation of the highlight reel, the setup process 302 provides a set of pre-defined filtering criteria as inputs to the capture/filter process 304. To facilitate this automation process, the system 300 preferably prompts a system user for input of a variety of data associated with the game." *Id.* at ll. 62-67. As noted by the examiner, *supra*, such "game data," col. 17, l. 1, may describe a stadium in which the football game is played. More specifically, such data may include the name, description, and history of the stadium. Tbl. 1. A stadium is a real place. Therefore, we find that the game data concerning the

stadium comprises second information on a real place shown in the video of the game. Based on the aforementioned findings, we affirm the anticipation rejection of claim 20 and of claims 1, 2-18, 23-27, and 30-33, which fall therewith.

III. CONCLUSION

In summary, the rejection of claims 1, 2-18, 20, 23-27, and 30-33 under § 102(e) is affirmed. "Any arguments or authorities not included in the brief will be refused consideration by the Board of Patent Appeals and Interferences. . . ." 37 C.F.R. § 1.192(a). Accordingly, our affirmance is based only on the arguments made in the briefs. Any arguments or authorities omitted therefrom are neither before us nor at issue but are considered waived. *Cf. In re Watts*, 354 F.3d 1362, 1367, 69 USPQ2d 1453, 1457 (Fed. Cir. 2004) ("[I]t is important that the applicant challenging a decision not be permitted to raise arguments on appeal that were not presented to the Board.") No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

ERROL A. KRASS
Administrative Patent Judge

ANITA PELLMAN GROSS
Administrative Patent Judge

LANCE LEONARD BARRY
Administrative Patent Judge

) BOARD OF PATENT
) APPEALS
) AND
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